

In the United States Court of Federal Claims

No. 06-536C

(Filed: January 11, 2007)

R. ASANTI ALI, also known as
REGINALD WOOTEN, *pro se*,

Plaintiff,

v.

UNITED STATES,

Defendant.

OPINION AND ORDER

The plaintiff, R ASANTI, ALI (C) 1988, ALL RIGHTS RESERVED, also known as REGINALD MONTEZ WOOTEN (C) 1988, ALL RIGHTS RESERVED, (“Mr. Ali”), seeks \$13,479,440,000.00 from the United States (“the government”), based upon an alleged breach by the government of a purported settlement agreement. The government has moved for dismissal of Mr. Ali’s complaint pursuant to Rules 12(b)(1) and (b)(6) of the Rules of the Court of Federal Claims (“RCFC”), asserting that this court lacks subject matter jurisdiction over his claims and that Mr. Ali has failed to state a claim upon which relief can be granted. For the reasons explained below, the government’s motion is granted.

BACKGROUND

On April 1, 2005, in the United States District Court for the Southern District of Georgia, Mr. Ali filed a suit involving a prisoner civil rights claim against the warden of the Federal Correctional Institution in Jessup, Georgia. *R. Asanti Ali v. Jose M. Vazquez*, No. 05-0079 (S.D. Ga. April 1, 2005). Senior Judge Anthony A. Alaimo presided over that case, in which Magistrate Judge James E. Graham was also involved. Mr. Ali evidently was not successful in this suit. Subsequently, on December 5, 2005, in the same court, Mr. Ali filed a suit against

Judge Alaimo. *Reginald M. Wooten v. Judge Anthony A. Alaimo*, No. 05-0241. Judge William T. Moore presided over the second case. Again, Mr. Ali appears to have been denied relief. Mr. Ali's displeasure with the outcomes of these two cases appears to be the predicate for his current action.

In the present case, Mr. Ali alleges that on February 8, 2006, he mailed the government a document styled as a "Verified Notice of Tort Claim Final Request for Settlement and Remedy by Special Visitation" ("Settlement Request"). Compl. ¶ 22. By his Settlement Request, Mr. Ali appears to have asked the government to agree to assume liability to Mr. Ali in the amount of \$13,679,440,000 for the purportedly wrongful conduct of Judges Alaimo, Moore, and Graham, and Scott Poff, Clerk of Court, United States District Court for the Southern District of Georgia. See Compl. Ex. A at 1-3, 8.¹

Mr. Ali claims that under the terms of his Settlement Request, the government's "failure and/or otherwise refusal to respond" to Mr. Ali's Settlement Request "signifies the Defendant's

¹In his suit, Mr. Ali apparently has decided not to pursue \$200 million of this initially claimed amount. Mr. Ali's Settlement Request levied numerous allegations against the judges and the clerk. Mr. Ali complained of what he described as their "usurpation, arbitrary, and capricious disregard of the law of contract," their "failure to exercise [their] powers in their administrative capacity," their "refusal to perform a ministerial duty owed to [Mr. Ali]," unspecified "intentional negligent, reckless and razor sharp acts . . . and omissions . . . [amounting to] . . . violations of . . . federal criminal laws[,] the tax laws[,] [their] Oath of Office contract[,] The 7 Circle Koran of The Holy Covenant for the Asiatic Nation[,] and . . . The Moroccan Peace and Friendship Treaty and Amnesty." Compl. Ex. A at 3. Mr. Ali referred to unspecified continuing acts of slander and libel. *Id.* Mr. Ali also asserted that his "private property is being [withheld] by the [judges and the clerk]," who, according to Mr. Ali, interfered with the operation of "House Joint Resolution 192 of June 5, 1933, enacted as Public Law 73-10[,] therefore creating a delinquent tax liability and disrupting the flow of . . . currency." Compl. Ex. A at 4. (The Agricultural Adjustment Act, Pub. L. No. 73-10, 48 Stat. 31, was enacted by Congress May 12, 1933. Congress approved the cited joint resolution "[t]o assure uniform value to the coins and currencies of the United States," H.R.J. Res. 192, Pub. Res. No. 73-10, 48 Stat. 112, on June 5, 1933.) Mr. Ali further alleged that the judges and the clerk were "attempting to deny" Mr. Ali his "natural and absolute fundamental rights." Compl. Ex. A at 4. Mr. Ali also claimed that the judges and the clerk were "on a fishing trip attempting to obtain and assume an assessment for the purpose of using sexual energy to change the gender of the commercial obligation and commercial instruments, which represent [Mr. Ali's] private and personal property and person." Compl. Ex. A at 5-6. Mr. Ali also charged that the judges and the clerk were "sexual predators" employing "terrorist" conduct against Mr. Ali. Compl. Ex. A at 6. According to Mr. Ali, the judges and the clerk were "operating as a Gang outside the federal United States Bankruptcy [sic]." *Id.*

full assent, consent and agreement” to the Request. Compl. ¶ 25. The Settlement Request also recites that a document styled as a “Certificate of Non-Response (Dishonor)” might “act as” an extra-judicial “private judgment” Mr. Ali obtained against the government and should be given “conclusive” effect. Compl. Ex. A at 9-10.

JURISDICTION

“Jurisdiction must be established as a threshold matter before the court may proceed with the merits of this or any other action.” *OTI America, Inc. v. United States*, 68 Fed. Cl. 108, 113 (2005) (citing *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 88-89 (1998)). “Should the court find that it lacks subject matter jurisdiction to decide a case on its merits, it is required either to dismiss the action as a matter of law or to transfer it to another federal court that would have jurisdiction.” *Travelers Indem. Co. v. United States*, 72 Fed. Cl. 56, 59-60 (2006) (citing *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1868); *Thoen v. United States*, 765 F.2d 1110, 1116 (Fed. Cir. 1985); *Gray v. United States*, 69 Fed. Cl. 95, 102-03 (2005)).

As plaintiff, Mr. Ali bears the burden of establishing the court’s subject matter jurisdiction over his claims by a preponderance of the evidence. *Reynolds v. Army & Air Force Exch. Serv.*, 846 F.2d 746, 748 (Fed. Cir. 1988); see *McNutt v. General Motors Acceptance Corp. of Ind.*, 298 U.S. 178, 189 (1936). In determining its subject matter jurisdiction, a court must accept as true all undisputed facts asserted in the plaintiff’s complaint and “draw all reasonable inferences in favor of the plaintiff.” *Goel v. United States*, 62 Fed. Cl. 804, 806 (2004) (citing *Henke v. United States*, 60 F.3d 795, 797 (Fed. Cir. 1995)); see also *Hamlet v. United States*, 873 F.2d 1414, 1415-16 (Fed. Cir. 1989).

Pro se claimants are held to a less stringent standard in pleading than that which is applied to formal pleadings prepared by counsel. *Hughes v. Rowe*, 449 U.S. 5, 9 (1980); *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Nonetheless, subject matter jurisdiction must be distinctly and affirmatively pled in the complaint. See *Norton v. Larney*, 266 U.S. 511, 515-16 (1925); *Henke*, 60 F.3d at 799.

The Tucker Act constitutes explicit consent for the filing in this court of “any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1). Alone, however, the Tucker Act is insufficient to confer subject matter jurisdiction. The plaintiff must also identify a substantive right that is enforceable against the United States for money damages. *United States v. Mitchell*, 463 U.S. 206, 217-18 (1983); see also *United States v. Testan*, 424 U.S. 392, 398 (1976).

Mr. Ali’s complaint and other filings, even when liberally construed, fail to implicate a money-mandating constitutional provision, federal statute, or federal regulation under which this court may exercise jurisdiction, with two exceptions addressed *infra*. For example, although Mr. Ali’s complaint might be construed as alleging that federal judges and other federal officials

acted in contravention of the Fourth Amendment, the Due Process Clause of the Fifth Amendment, and the Ninth Amendment in ways that harmed him, *see* Compl. ¶ 45, these constitutional provisions do not obligate the government to pay money damages and therefore are not a source of jurisdiction for this court. *See Fry v. United States*, 72 Fed. Cl. 500, 507-08 (2006). Similarly, to the extent that Mr. Ali's complaint might be construed as alleging damages for "acts, actions and omissions" of the government causing Mr. Ali "emotional, financial and physical trauma," *see* Compl. ¶ 45, such a claim would sound in tort and not fall within Congress's statutory grant of jurisdiction to this court. *See Brown v. United States*, 105 F.3d 621, 623 (Fed. Cir. 1997) ("The Court of Federal Claims . . . lacks jurisdiction over tort actions against the United States.") (citing 28 U.S.C. § 1491(a)).

Furthermore, this court "does not have jurisdiction to review the decisions of district courts." *Vereda Ltda. v. United States*, 271 F.3d 1367, 1375 (Fed. Cir. 2001) (quoting *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994)). Thus, this court may not review decisions entered by the District Court for the Southern District of Georgia. Moreover, this court "has no jurisdiction to adjudicate any claims whatsoever under the federal criminal code." *Joshua v. United States*, 17 F.3d 378, 379 (Fed. Cir. 1994). Accordingly, Mr. Ali's allegations of criminal wrongdoing by the judges or the clerk are beyond this court's purview. Nor may this court entertain a collateral attack on the actions of a federal district court in a criminal proceeding, including one in which Mr. Ali may have been a defendant. *Id.* This court also lacks jurisdiction over Mr. Ali's claim to the extent it may be construed as a claim against the named judges or the clerk individually. *Stephenson v. United States*, 58 Fed. Cl. 186, 190 (2003) ("[T]he only proper defendant for any matter before this court is the United States, not its officers, nor any other individual.") (citing *United States v. Sherwood*, 312 U.S. 584, 588 (1941)).

Mr. Ali's references to the "law Merchant," Compl. ¶ 57, and to his "Certificate of Non-Response (Dishonor)," Compl. ¶ 28, might be deemed an attempt to enforce a judgment against the United States. Nonetheless, "[u]ntil Congress provides by statute for the recognition and enforcement of judgments against the United States, [this court is] devoid of jurisdiction" to entertain a writ of execution of a judgment, akin to that provided in Fed. R. Civ. P. 69. *Ramirez v. United States*, 36 Fed. Cl. 467, 472 (1996) (addressing whether this court has power to enforce a foreign judgment entered against the United States).

The several references to "Chapter 11" and "bankruptcy," in Mr. Ali's complaint, *see, e.g.,* Compl. ¶¶ 53-55, even if viewed as a request to review a decision on a bankruptcy petition filed by Mr. Ali, *see In re Reginald M. Wooten*, No. 05-70393 (M.D. Ga. filed Mar. 21, 2005), or on any other bankruptcy matter, would not be a source of subject matter jurisdiction for this court in this case because "[t]he Court of Federal Claims does not have jurisdiction to review decisions issued during the normal course of bankruptcy proceedings." *Allustiarte v. United States*, 46 Fed. Cl. 713, 718 (Fed. Cl. 2000).

In short, this court has no juridical power to address Mr. Ali's claims premised on the Fourth Amendment, the Due Process Clause of the Fifth Amendment, or the Ninth Amendment. Power is also lacking to consider Mr. Ali's claims respecting actions taken by a federal district

court in criminal proceedings or in civil or bankruptcy cases. Neither may this court address actions against federal judges or federal employees in their personal capacities.

FAILURE TO STATE A CLAIM

Finally, “Mr. Ali’s complaint m[ight] be liberally construed as alleging a breach of [a] settlement agreement,” Def.’s Mot. for Dismissal at 5, or a “deni[al] of private property without just compensation.” Def.’s Mot. for Dismissal at 6. The court possesses jurisdiction under the Tucker Act to hear suits seeking money damages for a breach of contract by the United States and suits seeking compensation under the Takings Clause of the Fifth Amendment. 28 U.S.C. §1491(a)(1). The government points out that no contract exists between Mr. Ali and the government because governmental officials gave no assent to Mr. Ali’s Settlement Request. Def.’s Mot. for Dismissal at 5. As to the takings claim, Mr. Ali has failed to “specify the nature of his private property interest or whether the property was taken for public use.” Def.’s Mot. for Dismissal at 7. As a consequence, these claims by Mr. Ali are not supported by factual allegations that would sustain a claim if proven. Thus, dismissal of these claims is appropriate under RCFC 12(b)(6). As the Supreme Court has explained, “the failure to state a proper cause of action calls for a judgment on the merits and not for a dismissal for want of jurisdiction.” *Bell v. Hood*, 327 U.S. 678, 682 (1946).

CONCLUSION

For the reasons stated above, the government’s motion to dismiss under RCFC 12(b)(1) and 12(b)(6) is GRANTED. The Clerk shall enter judgment accordingly. No costs.

It is so ORDERED.

Charles F. Lettow
Judge